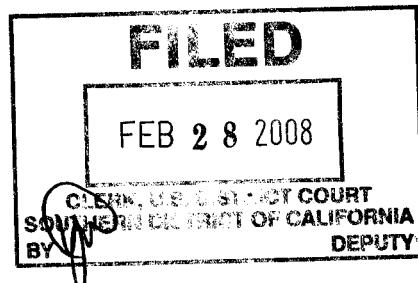


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UNITED STATES OF AMERICA



9 UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,) Magistrate Case No. 11

11 UNITED STATES OF AMERICA,) Magistrate Case No. 08MJ0437

Magistrate Case No. 3:19-cv-00157

12 Plaintiff,

1. *What is the primary purpose of the study?*

13 v.

14 GUADALUPE BERNAL LOPEZ

4 GUADALUPE BERNAL-LOPEZ,

15 | P a g e

Defendant

Magistrate Case No. 08MJ0437

**STIPULATION OF FACT AND JOINT
MOTION FOR RELEASE OF
MATERIAL WITNESS(ES) AND
ORDER THEREON**

(Pre-Indictment Fast-Track Program)

17 **IT IS HEREBY STIPULATED AND AGREED** between the plaintiff, UNITED STATES
18 OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and
19 Douglas Keehn, Assistant United States Attorney, and defendant GUADALUPE BERNAL-LOPEZ,
20 by and through and with the advice and consent of defense counsel, Wendy S. Gerboth, that:

1. Defendant agrees to execute this stipulation on or before the first preliminary hearing
date and to participate in a full and complete inquiry by the Court into whether defendant knowingly,
intelligently and voluntarily entered into it. Defendant agrees further to waive indictment and plead
guilty to the pre-indictment information charging defendant with a non-mandatory minimum count
of Bringing in Aliens Without Presentation and Aiding and Abetting, in violation of 8 U.S.C.
§ 1324(a)(2)(B)(iii) and 18 U.S.C. § 2.

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28 || WDK:psd:2/20/08

GBL

1 2. Defendant acknowledges receipt of a plea agreement in this case and agrees to
2 provide the signed, original plea agreement to the Government not later than five business days
3 before the disposition date set by the Court.

4 3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or
5 before **March 17, 2008**.

6 4. The material witness, Eufrosina Arzola-Ramirez, in this case:
7 a. Is an alien with no lawful right to enter or remain in the United States;
8 b. Entered or attempted to enter the United States illegally on or about
9 February 14, 2008;
10 c. Was found in a vehicle driven by defendant at the San Ysidro, California Port
11 of Entry (POE) and that defendant knew or acted in reckless disregard of the fact that she was an
12 alien with no lawful right to enter or remain in the United States;

13 d. Was having others pay on her behalf \$3,700 to others to be brought into the
14 United States illegally and/or transported illegally to her destination therein;

15 e. Before she was apprehended at the border, she heard Defendant tell her not
16 to move and to stay quiet; and,

17 f. May be released and remanded immediately to the Department of Homeland
18 Security for return to her country of origin.

19 5. After the material witnesses are ordered released by the Court pursuant to this
20 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any
21 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any proceeding,
22 including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

23 a. The stipulated facts set forth in paragraph 4 above shall be admitted as
24 substantive evidence;

25 //

26 //

27 //

28 Stipulation of Fact and Joint Motion for Release of
 Material Witness(es) And Order Thereon in
 United States v. Guadalupe Bernal-Lopez

b. The United States may elicit hearsay testimony from arresting agents regarding any statements made by the material witness(es) provided in discovery, and such testimony shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest of (an) unavailable witness(es); and,

c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004), “testimonial” hearsay statements are not admissible against a defendant unless defendant confronted and cross-examined the witness(es) who made the “testimonial” hearsay statements, defendant waives the right to confront and cross-examine the material witness(es) in this case.

6. By signing this stipulation and joint motion, defendant certifies that defendant has read it (or that it has been read to defendant in defendant's native language). Defendant certifies further that defendant has discussed the terms of this stipulation and joint motion with defense counsel and fully understands its meaning and effect.

Based on the foregoing, the parties jointly move the stipulation into evidence and for the immediate release and remand of the above-named material witness(es) to the Department of Homeland Security for return to her country of origin.

It is STIPULATED AND AGREED this date.

Respectfully submitted,

KAREN P. HEWITT
United States Attorney

Dated: 2/28/08

~~DOUGLAS KEEHN~~
Assistant United States Attorney

Dated: 7/26/08.

WENDY S. GERBOTH
Defense Counsel for BERNAL-LOPEZ

Dated: 1/21/06

~~GUADALUPE BERNAL-LOPEZ~~
Defendant

**Stipulation of Fact and Joint Motion for Release of
Material Witness(es) And Order Thereon in
United States v. Guadalupe Bernal-Lopez**

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ORDER

Upon joint application and motion of the parties, and for good cause shown,
THE STIPULATION is admitted into evidence, and,
IT IS ORDERED that the above-named material witness(es) be released and remanded
forthwith to the Department of Homeland Security for return to her country of origin.

SO ORDERED.

Dated:


United States Magistrate Judge

**Stipulation of Fact and Joint Motion for Release of
Material Witness(es) And Order Thereon in
United States v. Guadalupe Bernal-Lopez**

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